

## REMARKS

### Rejection under 35 U.S.C § 102 – Anticipation

The Examiner issued a 35 U.S.C § 102(b) rejection of claims 1, 2, 6, 9-11, 14, 17, 18 and 20 as being anticipated by U.S. Pat. No. 5,865,723 to Love (Love).

Applicants respectfully disagree with the rejection because the cited reference does not disclose each and every element of the rejected claims. According to the MPEP § 2131, “a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of CA*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

As amended, independent claim 1 is directed to a stent tissue graft prosthesis that includes a first expandable stent having a first distal stent end and a first proximal stent end, a tubular wall and a passage extending longitudinally therethrough; a tissue graft having a distal tissue graft end and a proximal tissue graft end and disposed on said first stent; and a tubular member having a wall and a passage extending longitudinally therethrough, said tubular member being disposed over said tissue graft and around said first stent and retaining said tissue graft disposed on said first stent, wherein *the first distal stent end is at least coincident with the distal tissue graft end and the first proximal stent end is at least coincident with the proximal tissue graft end* to prevent the tissue graft from everting or folding into the passage of the first expandable stent.

As amended, independent claim 20 is directed to a stent tissue graft prosthesis that includes a first expandable stent having a first distal stent end and a first proximal stent end, a tubular wall and a passage extending longitudinally therethrough; a multilayered tissue graft construct having a distal construct end and a proximal construct end, a tubular wall and a passage extending longitudinally therethrough and disposed on said first stent; and a second expandable stent having a tubular wall and a passage extending longitudinally therethrough, said second stent being disposed over

and around said construct and said first stent, and retaining said construct disposed on said first stent. *The first distal stent end is at least coincident with the distal construct end and the first proximal stent end is at least coincident with the proximal construct end* to prevent the multilayered tissue graft from everting or folding into the passage of the first expandable stent.

The cited reference does not disclose all of these elements. In particular, the reference does not disclose a stent tissue graft prostheses that include a stent having ends that are at least coincident with the ends of the tissue graft or with the ends of the multilayered tissue graft construct. Accordingly, the Section 102(b) rejection of claims 1, 2, 6, 9-11, 14, 17, 18 and 20 that was predicated on the Love reference should be withdrawn.

### **Rejection under 35 U.S.C § 103 – Obviousness**

The Examiner also issued a 35 U.S.C § 103(a) rejection of claims 4, 5, 7, and 8 as being unpatentable over Love in view of U.S. Pat. No. 6,358,284 B1 to Fearnot *et al* (Fearnot *et al.*); and of claims 1, 12, and 16 as being unpatentable over U.S. Pat. No. 5,628,788 to Pinchuk in view of Fearnot *et al*.

Applicants disagree with these obviousness rejections for the following reasons.

As noted above, the Love reference do not disclose stent tissue graft prostheses that include a first expandable stent having a first distal stent end and a first proximal stent end, a tubular wall and a passage extending longitudinally therethrough; a tissue graft having a distal tissue graft end and a proximal tissue graft end and disposed on said first stent; and a tubular member having a wall and a passage extending longitudinally therethrough, said tubular member being disposed over said tissue graft and around said first stent and retaining said tissue graft disposed on said first stent, wherein the first distal stent end is at least coincident with the distal tissue graft end and the first proximal stent end is at least coincident with the proximal tissue graft end to prevent the tissue graft from everting or folding into the passage of the first expandable stent.

Likewise, Pinchuk does not disclose a stent tissue graft prostheses that include an inner stent with ends that are at least coincident with the ends of a tissue graft.

Moreover, nothing in the Fearnot *et al.*, reference suggests modifying the prosthesis of Love or Pinchuk to include an inner stent with ends that are at least coincident with the ends of a tissue graft to prevent the tissue graft from everting or folding into the passage of the first expandable stent. Accordingly, the stent tissue graft prosthesis of Applicant's claims 1 is both novel and non-obvious. As such, the prostheses defined by the claims depending on claim 1, are also novel and non-obvious. In particular, claims 4, 5, 7, and 8 are not obvious under 35 U.S.C. §103 over Love in view of Fearnot *et al.*, and claims 1, 12, and 16 are not obvious under 35 U.S.C. §103 over Pinchuk in view of Fearnot *et al.* Applicant requests that this rejection be withdrawn.

### SUMMARY

Applicant respectfully submits that present application is now in condition for allowance. If, for any reason, the Examiner feel a discussion would expedite the prosecution of this application, the Examiner is kindly invited to contact the undersigned at (312) 245-5398.

Respectfully submitted,

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Magdalena O. Cilella, Ph.D.  
Registration No. 56,619  
Agent for Applicant

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200